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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,906	03/09/2004	Masami Suzuki	12587-048001 / D03-047/01	3382
26212	7590	06/20/2007	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			DUNHAM, JASON B	
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/797,906	SUZUKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jason B. Dunham	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 04 April 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

The Declaration under 37 CFR 1.132 filed April 4, 2007 is sufficient to overcome the rejection of claims 1-26 based upon Klenske (US 2005/0197909).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Williams (2005/0197946).**

Referring to claims 1-13. Williams discloses a method comprising:

- Receiving information describing one or more items for sale by a seller (abstract);
- Facilitating a sale of the items through one or more online sales channels (abstract); and
- Reporting metrics to the seller regarding the one or more items for sale on the one or more online sales channels, wherein the metrics comprise top-line highlights, bottom-line highlights, SKU-level information, and an executive summary (figure 5a).

- Goods (abstract), a central source for measuring and assessing information (abstract), recommendations for improving sales (figure 5a), feedback in comparison to sales targets (abstract), adjustments to sales pricing (abstract), software infrastructure (abstract), tracking of financial information (figure 5a), business-specific information (figure 5a), receiving and validating a PDF (paragraph 13).

Referring to claims 14-25. Klenske discloses all of the above and further discloses a system comprising:

- Reports on items for sale (abstract), targets relating to forecasts (abstract), a reporting tool to present the reports (figure 5a), benchmarks or comparison of actual to forecasted sales (paragraph 69), recommendations (paragraph 69), top and bottom line highlights or financial information (figure 5a), insights to costs (paragraph 2), customization of reports presenting feedback allowing a the seller to assess performance (figure 5a), ability to facilitate organized view of auction data (figure 5a) including a web based presentation (paragraph 36), and information on gross sales (paragraph 2).

Referring to claim 26. Claim 26 is rejected under the same rationale set forth above.

**Claims 1-3, 8-9, 12-13, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang (U.S. Patent Application Publication No. 2003/0154134).**

Referring to claim 1. Wang discloses a method comprising:

- Receiving information describing one or more items for sale by a seller (Wang: figure 1);
- Facilitating a sale of the items through one or more online sales channels (Wang: abstract); and
- Reporting metrics to the seller regarding the one or more items for sale on the one or more online sales channels, wherein the metrics comprise top-line highlights, bottom-line highlights, SKU-level information, and an executive summary (Wang: figure 5).

Referring to claims 2-3. Wang further discloses a method wherein an item comprises a good and the reporting provides the seller with a central source for measuring and assessing information (Wang: abstract).

Referring to claim 8. Wang further discloses a method comprising providing a software infrastructure that enables the seller to provide information describing one or more items to be sold on the one or more online sales channels (Wang: abstract).

Referring to claim 9. Wang further discloses a method comprising keeping track of information related to the one or more items for sale, wherein the information comprises financial information and quantity of goods sold, wherein the financial information comprises fees and costs (Wang: figure 5).

Referring to claim 12. Wang further discloses a method comprising receiving business specific information (Wang: figure 5).

Referring to claim 13. Wang further discloses a method comprising validating data entry of the items for sale (Wang: figure 1). The examiner notes that validating the

information regarding the item for sale in within a user interface as disclosed in Wang or a PDF is not patentably distinct.

Referring to claim 26. Claim 26 is rejected under the same rationale set forth above in the rejection of claim 1.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4-7 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent Application Publication No. 2003/0154134) in view of Jin (U.S. Patent Application Publication No. 2005/0033648).**

Referring to claims 4-7 and 10-11. Wang discloses all of the above as noted under the 102 (e) rejection but does not expressly disclose recommendations to improve the sale price of items and comparing actual sales to sales targets. Jin discloses a method comprising:

- Recommendations to improve item sale prices (Jin: abstract);
- Feedback on a condition of sales in comparison to sales targets (Jin: figure 5), determined by the seller (Jin: figure 5);
- Reporting metrics facilitates sales adjustments response to an auction (Jin: figure 8).

- Recommendations on sales showing cause and effect patterns (Jin: figure 10), the recommendations based on the seller's preferences (Jin: figures 5 and 7).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Wang to have included recommendations to improve the sale price of items and comparing actual sales to sales targets, as taught by Jin, in order optimize seller's returns based on seller created rules (Jin: abstract).

**Claims 14-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Wang and Jin in view of Zeidman (US 2006/0190352).**

Referring to claims 14-25. The combination of Wang and Jin disclose all of the above and further discloses a system comprising:

- Reports providing information from a connection provider to a seller (Wang: figure 5);
- Targets relating to forecasts determined by the seller (Jin: figure 5 and paragraph 31);
- Benchmarks or comparison of actual sales to the seller's targets (Jin: figure 10), a summary with recommendations and analysis (Jin: abstract and paragraph 31), a dashboard or report with financial performance results and comparison of sales performance and forecast (Jin: figure 10), customized by the seller (Jin: figures 5 and 7), capability to facilitate organized views of auction data (Jin: figure 6) in a web based format (Jin: paragraph 10) showing gross sales (Jin: figure 6).

- The combination of Wang and Jin does not expressly disclose a reporting tool to present reports with qualitative subjective information. Zeidman discloses a system comprising a reporting tool to present reports with qualitative subjective information (Zeidman: figure 10). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the system of Wang and Jin to have included qualitative subjective information, as taught by Zeidman, in order to allow a seller to determine the best way to sell their item (Zeidman: abstract).

### ***Response to Arguments***

Applicant's arguments filed April 4, 2007 regarding claims 1-13 and 26 have been fully considered but they are not persuasive. Applicant argues that Wang does not disclose "top-line highlights, bottom-line highlights, SKU-level information, and an executive summary." In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., comparison of sales performance and forecasts and components of the executive summary) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Dependent claims 2-13 are rejected under the same rationale.

Applicant further argues that the combination of Wang and Jin does not disclose recommendations and feedback. The examiner disagrees as providing logic that

optimizes returns for seller listings is clearly a recommendation as to the best way to offer seller's products. Furthermore, paragraph 114 of Jin indicates a user is allowed to set the target recovery rate and figure 5 allows a user to search inventory to determine if this target rate is met for a product thereby providing feedback.

Applicant's arguments, filed April 4, 2007, with respect to the rejection(s) of claim(s) 14-25 under the combination of Wang and Jin have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Zeidman.

***Conclusion***

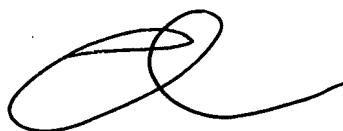
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason B. Dunham whose telephone number is 571-272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JBD  
Patent Examiner  
6/11/07

NAEEM HAQ  
**PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read "NAEEM HAQ", is positioned below the typed name and title.